

# EXHIBIT B

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SUPREME COURT OF THE STATE OF NEW YORK  
 COUNTY OF NEW YORK

-----X **Commercial Division**  
 ATHENA ART FINANCE CORP.,

Plaintiff,

-against-

**Verified Complaint**

that

CERTAIN ARTWORK BY JEAN-MICHEL BASQUIAT  
 ENTITLED HUMIDITY, 1982, *In Rem*,

Index No. 652258/2020

Defendant.

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COMES NOW plaintiff Athena Art Finance Corp. (“Athena”), a specialty lender engaged in the business of providing loans secured by high value fine art. Athena made a loan to a borrower that was collateralized by the above-referenced *in rem* defendant, a painting known as “Humidity” by Jean-Michel Basquiat, 1982 (the “Basquiat”). As this Court is aware, that loan is in default. Athena now brings this verified complaint to sell the Basquiat in order to satisfy this Court’s previously entered \$14,306,800.47 judgment in Athena’s favor. By and through its attorneys, Mazzola Lindstrom, LLP, Athena alleges therefor upon information and belief as follows:

### Nature of Claim

1. This is an *in rem* action to foreclose Athena's lien, and to obtain an order permitting Athena to sell the Basquiat, an oil painting with dimensions of 96" x 72", which is fairly and accurately reproduced here:



2. The Basquiat is currently in the possession of Athena at a secure facility in New York, within the jurisdiction of the Supreme Court of the State of New York for the County of New York.

3. This action arises out of a loan and security agreement, as amended from time to time between Athena and 18 Boxwood Green Limited ("Boxwood") (the "LSA"), an entity which is 100% owned by Inigo Philbrick ("Philbrick"), who also separately provided both a personal guarantee and a corporate guarantee from his London company, Inigo Philbrick Limited ("IPL") (collectively, the "Loan Obligors"), which loan was collateralized by the defendant *in rem*, and which loan was defaulted upon.

4. This Court has already entered a judgment for Athena and against the Loan Obligors in the amount of \$14,306,800.47. See *Athena Art Finance Corp. v. 18 Boxwood Green Limited, et al.*, NY County Index No. 657322/19 (Docket Entry 29, March 2, 2020) (Ostrager, J.) (the “Judgment”).

5. As a result of this Court’s Judgment and under the explicit terms of the LSA, Athena, having possession of the Basquiat, is now entitled to sell it.

6. The LSA, upon which this Court already has awarded judgment, is explicit that Athena already has the right to sell the painting unilaterally. It therefore now only seeks a declaration from this Court that it may sell the Basquiat without regard to outstanding claims from third parties purporting to hold some sort of interest in the painting.

### **Procedural History and Record**

7. On March 31, 2017, Athena entered into the LSA and a promissory note (the “Original Note”) with Boxwood.

8. Athena extended a loan commitment to Boxwood in the original amount of \$10 million under the LSA and the Original Note.

9. On March 31, 2017, the same day as Athena and Boxwood entered into the LSA and the Original Note, IPL entered into a corporate guaranty and Philbrick entered into a personal guaranty.

10. Also on March 31, 2017, Athena filed a UCC-1 statement in the District of Columbia against “all assets of [Boxwood] and all proceeds thereof.” Athena filed in the District of Columbia given Boxwood’s status as a foreign borrower incorporated under the laws of Jersey.

11. Pursuant to Section 3.4 of the LSA, on April 7, 2017, the Basquiat was pledged as loan collateral.

12. On May 28, 2018, the loan commitment was increased by \$3.5 million permitting a total principal amount of up to \$13.5 million.

13. The following facts were presented to the Court in the proceeding at which the aforementioned Judgment was awarded against the Loan Obligors:

a. On October 1, 2019, Boxwood was obligated to, but did not, make a regularly scheduled monthly interest payment of \$102,590.00, representing 30-days of accrued interest from September 1, 2019 through September 30, 2019.<sup>1</sup>

b. On October 4, 2019, Athena notified Boxwood that it had failed to make the interest payment due on October 1, 2019, which failure Boxwood did not remedy within the 30 day grace period, as required by the LSA, and has never been paid to date.

c. Athena served a notice of default upon all of Boxwood, IPL, and Philbrick on October 14, 2019 based on other breaches of the LSA.

d. As of October 31, 2019, Boxwood's failure to pay interest constituted another event of default under the LSA.

e. Athena chose to exercise its rights under the LSA to "declare the outstanding principal of the Loans, all interest thereon and all other Obligations to be forthwith due and payable," and its right to subject the entire outstanding amount to the default interest rate and late fees as of October 31, 2019, the date

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<sup>1</sup> As of May 31, 2020, Athena is owed in excess of \$15.5 million.

that Boxwood's missed interest payment became another event of default under the LSA.

f. As set forth in the Judgment, the loan is subject to the contractual default rate of 14.0701% per annum plus the late fee of 2%, and other fees, costs and penalties.

14. Today, June 12, 2020, Athena learned that Inigo Philbrick was taken into custody on June 11, 2020 by U.S. federal law enforcement agents in Vanuatu. According to a press release by the U.S. Department of Justice, Philbrick was transported to Guam, where he is expected to appear in federal court on June 15, 2020.

15. Also today, June 12, 2020, a criminal complaint filed April 30, 2020 in the United States District Court for the Southern District of New York (Index No. 20 MAG 4507) was unsealed. Pursuant to that criminal complaint, Philbrick is charged with wire fraud and aggravated identity theft.

### **Third Parties' Purported Claims**

16. By email dated October 18, 2019, attorney Simon Bushell of Signature Litigation LLP in London advised Athena that his client, Satfinance Investment Limited ("Satfinance"), claimed an interest in the Basquiat.<sup>2</sup> Shortly thereafter, Satfinance commenced an action against Athena in London, England ("Satfinance's London Action"). The English court initially entered – but then on June 2, 2020 lifted – an injunction to prevent the sale of the Basquiat, dismissed Satfinance's action against Athena altogether and awarded attorneys' fees to Athena. Immediately thereafter, Athena filed the instant action.

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<sup>2</sup> Subsequently, attorney Derek J.T. Adler of Hughes Hubbard & Reed LLP, advised that he represents Satfinance's interests in New York.

17. By email dated October 21, 2019, attorney Diana Wierbicki of the Withers law firm advised that her client, Delahunty Fine Art Ltd., claimed an interest in the Basquiat. On November 5, 2019 Athena was informed that Dan McClean of Cypress LLP had taken over that representation. Delahunty was subsequently joined to Satfinance's London Action.

**Prayer for Relief: Declaration that Athena May Sell the In Rem Defendant**

18. Athena repeats and realleges the allegations set forth above.

19. Based upon the foregoing allegations, Athena is entitled to a declaration that it may now collect on the Judgment, plus accrued and unpaid stated interest, accrued and unpaid default interest, late fees, Collateral Administration Fees and Lender Expenses, as those terms are defined by the LSA, by selling the Basquiat as provided in the LSA upon which that Judgment was based.

WHEREFORE, plaintiff Athena Art Finance Corp. seeks a declaration that its right to sell the Basquiat in order to satisfy the Judgment, plus accrued and unpaid stated interest, accrued and unpaid default interest, late fees, Collateral Administration Fees and Lender Expenses in accordance with the LSA, is not separately violative of whatever rights any other person or entity may claim to have with respect to the *in rem* defendant – to wit, that Certain Artwork by Jean-Michel Basquiat entitled Humidity, 1982 –and that notice be deemed sufficient to the following potentially interested persons by delivery of these papers to the following addresses via email and Federal Express:

SATFINANCE INVESTMENT LIMITED  
BORIS PESKO and ALEKSANDAR PESKO  
c/o Derek J.T. Adler, Esq.  
Hughes Hubbard & Reed LLP  
One Battery Park Plaza, 17th floor  
New York, New York 10004-1482  
(212) 837-6086  
[derek.adler@hugheshubbard.com](mailto:derek.adler@hugheshubbard.com)

DELAHUNTY FINE ART LTD.  
DAMIAN DELAHUNTY  
c/o Daniel McClean, Esq.  
Cypress LLP  
11111 Santa Monica Boulevard, Suite 500  
Los Angeles, California 90025  
(424) 313-5674  
[dmclean@cypressllp.com](mailto:dmclean@cypressllp.com)

INIGO PHILBRICK LIMITED  
INIGO PHILBRICK  
18 BOXWOOD GREEN LIMITED  
c/o Brebners, as agent for service of process  
for 18 Boxwood Green Limited  
30 Shaftesbury Ave, London, UK W ID SAR;  
[london@brebners.com](mailto:london@brebners.com)

Dated: New York, New York  
June 12, 2020

Respectfully submitted,  
MAZZOLA LINDSTROM, LLP

By:   
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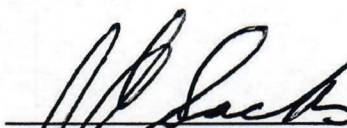


**Verification**

State of New York     )  
                                  )  
County of New York    )     ss.:

Cynthia Sachs, being duly sworn, deposes and says:

I am the Chief Investment Officer of Athena Art Finance Corp., the plaintiff in this action. I have read the complaint herein and know the contents thereof to be true to my own knowledge, except as to those matters stated on information and belief, and as to those matters I believe them to be true.

  
Cynthia Sachs

Sworn to before me this  
12th day of June, 2020

Wendy J. Lindstrom  
Notary Public

WENDY J. LINDSTROM  
NOTARY PUBLIC STATE OF NEW YORK  
Registration No.: 02416035790  
Qualified in Nassau County  
Commission Expires January 3, 2022